

# EXHIBIT **B**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of The Arbitration of Certain Controversies :  
Between: :

DUNHILL FRANCHISEES TRUST :

Petitioner, :

-and- :

DUNHILL STAFFING SYSTEMS, INC., :

Respondent. :

Index No.: 109725/07

**NOTICE OF NOTICE OF  
REMOVAL**

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TO THE SUPREME COURT OF THE STATE OF NEW YORK, NEW YORK  
COUNTY:

PLEASE TAKE NOTICE that Dunhill Staffing Systems, Inc., Respondent in this action, has, pursuant to federal law, filed with the clerk of the United States District Court for the Southern District of New York, a Notice of Removal pursuant to 28 U.S.C. §§ 1332 and 1441. Pursuant to that Notice of Removal, this Court has been divested of its jurisdiction. Therefore, this Court is respectfully requested to proceed no further in this action, unless and until the action is remanded by the United States District Court.

A copy of the Notice of Removal filed with the United States District Court for the Southern District of New York is attached and filed with this document. Notice of the Removal has been served via first class mail upon Petitioner's counsel of record listed below:

Richard L. Rosen, Esq.  
The Richard L. Rosen Law Firm, PLLC  
110 East 59<sup>th</sup> Street, 23<sup>rd</sup> Floor  
New York, New York 10022  
Tel.: (212) 644-6644

Dated: New York, New York  
August 2, 2007

Respectfully Submitted,

GREENBERG TRAURIG, LLP

By: 

Kenneth A. Lapatine (KL 3985)

Mark H. Budoff (MB 7069)

200 Park Avenue

New York, New York 10166

Phone: (212) 801-9200

*Attorneys for Respondent*

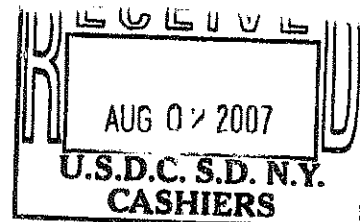
**JUDGE MARRERO**

**FILE COPY**  
**07 CV 6940**

GREENBERG TRAURIG, LLP  
Kenneth A. Lapatine (KL 3985)  
Mark H. Budoff (MB 7069)  
200 Park Avenue  
New York, New York 10166  
Tel.: (212) 801-9200

*Attorneys for Dunhill Staffing  
Systems, Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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In the Matter of The Arbitration of Certain Controversies :  
Between: :

DUNHILL FRANCHISEES TRUST :

Petitioner, :

-and- :

DUNHILL STAFFING SYSTEMS, INC., :

Respondent. :

Case No.:

----- X  
TO: The Honorable Judge of the United States District Court for the  
Southern District of New York

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 *et seq.*, Dunhill Staffing Systems, Inc., ("Respondent") hereby notices the removal of this civil action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. Respondent expressly reserves all available objections and defenses, including, without limitation, lack of jurisdiction over the person, insufficiency of process, insufficiency of service of process, improper joinder and failure to join a party under Rule 19.

In further support of this Notice of Removal, Respondent states as follows:

**PROCEEDING TO DATE**

1. On or about July 16, 2007, Petitioner, Dunhill Franchisees Trust, filed a Notice of Petition in the Supreme Court of the State of New York, County of New York, Index No. 109725/07, for a judgment pursuant to C.P.L.R. §7510 confirming the award of the arbitrator dated May 25, 2005, and directing that judgment be entered thereon, and for such other and further relief as may be just, proper and equitable, together with interest from the date of the award, attorney's fees, and the costs and disbursement of the proceeding.

2. No further proceedings have been had in the New York Supreme Court as of the date of filing of this Notice of Removal. Pursuant to 28 U.S.C. §1446(a), attached as Exhibit A to this Notice of Removal is a true and correct copy of all process, pleadings and orders served upon Dunhill Staffing Systems, Inc.

**GROUND FOR REMOVAL**

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441, for the following reasons:

3. Petitioner is a trust representing the interests of a group of several former franchisees<sup>1</sup> of Respondent.

- Franchisee Harvey Hauer is a citizen of the state of North Carolina;
- Franchisee Bud Westover is a citizen of the state of Texas;
- Franchisee Michael Lamanna is a citizen of the state of California;

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<sup>1</sup> During the pendency of the arbitration proceeding and prior to January 2007, many of the franchisees, initially named as respondents in Dunhill Staffing Systems, Inc.'s Demand for Arbitration, settled their disputes. Only five trust members participated in the arbitration proceeding.

- Franchisees Elias Zinn and Michael Wilcoxson<sup>2</sup> are citizens of the state of Texas.

4. Respondent is a corporation organized and existing under the laws of the State of Delaware with its principal offices located at 9190 Priority Way, West Drive, Suite 201, Indianapolis, Indiana 46240.

5. The amount in controversy is more than \$75,000 exclusive of interest and costs.

6. Respondent was served with the Petition on or about July 23, 2007. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b), as it is filed within thirty (30) days of Respondent's receipt of the initial pleading in this action.

7. Petitioner's action is pending in the Supreme Court for the State of New York, County of New York, which is within this judicial district and division. *See* 28 U.S.C. §112(b). This Court is the proper venue for removal under 28 U.S.C. §§ 1441(a), 1446(a).

8. Petitioner's action is based upon and seeks confirmation of an arbitration award that was made in the State of New York, County of New York, which is within this judicial district and division. This Court is the proper venue for removal under 9 U.S.C. §§9 and 10.

9. Pursuant to 28 U.S.C. § 1446(d), concurrently herewith, Respondent is filing a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York. Respondent is serving Petitioner with a copy of this Notice of Removal. A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit "B."

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<sup>2</sup> Elias Zinn and Michael Wilcoxson were business partners with respect to the Dunhill franchise.

WHEREFORE, Respondent respectfully gives Notice of Removal of the above action now pending against it to the United States District Court for the Southern District of New York, and respectfully requests that this Court proceed as if this case had been originally initiated in this Court.

Dated: New York, New York  
August 2, 2007

GREENBERG TRAURIG, LLP

By: 

Kenneth A. Lapatine (KL 3985)

Mark H. Budoff (MB 7069)

200 Park Avenue

New York, New York 10166

Tel: (212) 801-9200

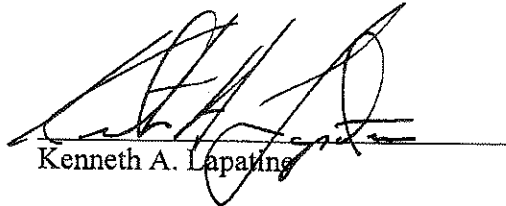
*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I served the foregoing **NOTICE OF REMOVAL**  
by mailing a true and correct copy thereof to the following person by first-class mail  
addressed to:

Richard L. Rosen, Esq.  
The Richard L. Rosen Law Firm, PLLC  
110 East 59<sup>th</sup> Street, 23<sup>rd</sup> Floor  
New York, New York 10022  
Tel.: (212) 644-6644

This 2<sup>nd</sup> day of July, 2007.

  
Kenneth A. Lapatine



JS 44C/SDNY  
REV 12/2004**JUDGE MARRERO****CIVIL COVER SHEET****FILE COPY**

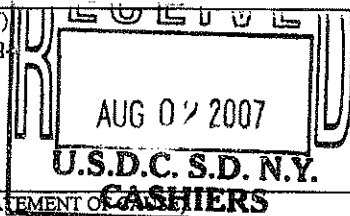
The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purposes of initiating the civil docket sheet.

**07 CV 6940****PLAINTIFFS****DUNHILL FRANCHISEES TRUST****DEFENDANTS****Dunhill Staffing Systems, Inc.****ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**

Richard L. Rosen, Esq.  
The Richard L. Rosen Law Firm, PLLC  
110 East 59<sup>th</sup> Street, 23<sup>rd</sup> Floor  
New York, NY 10022  
(212) 644-6644

**ATTORNEYS (IF KNOWN)**

Kenneth A. Lapatine, Esq.  
Mark H. Budoff, Esq.  
Greenberg Traurig, LLP  
200 Park Avenue  
New York, NY 10166  
(212) 801-9200



**CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF FACTS)**  
28 U.S.C. §§ 1332 and 1441 Removal of action to confirm arbitration award.

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

**(PLACE AN [X] IN ONE BOX ONLY)****NATURE OF SUIT****ACTIONS UNDER STATUTES**

CONTRACT		PERSONAL INJURY		PERSONAL INJURY		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110	INSURANCE	<input type="checkbox"/> 310	AIRPLANE	<input type="checkbox"/> 362	PERSONAL INJURY - MED	<input type="checkbox"/> 610	AGRICULTURE	<input type="checkbox"/> 422	APPEAL	<input type="checkbox"/> 400	STATE
<input type="checkbox"/> 120	MARINE	<input type="checkbox"/> 315	AIRPLANE PRODUCT LIABILITY	<input type="checkbox"/> 365	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 620	FOOD & DRUG	<input type="checkbox"/> 423	28 USC 158	<input type="checkbox"/> 410	REAPPORTMENT
<input type="checkbox"/> 130	MILLER ACT	<input type="checkbox"/> 320	ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> 368	PERSONAL INJURY - ASBESTOS	<input type="checkbox"/> 625	DRUG RELATED SEIZURE OF PROPERTY	<input type="checkbox"/> 430	WITHDRAWAL	<input type="checkbox"/> 430	ANTITRUST
<input type="checkbox"/> 140	NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 330	FEDERAL EMPLOYERS' LIABILITY	<input type="checkbox"/> 370	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 630	SEIZURE OF PROPERTY	<input type="checkbox"/> 440	28 USC 157	<input type="checkbox"/> 450	BANKS & BANKING
<input type="checkbox"/> 150	RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 340	MARINE	<input type="checkbox"/> 371	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 640	21 U.S.C. 881	<input type="checkbox"/> 460	RATES/ETC	<input type="checkbox"/> 460	COMMERCE/ICC
<input type="checkbox"/> 151	MEDICARE ACT	<input type="checkbox"/> 345	MARINE PRODUCT LIABILITY	<input type="checkbox"/> 380	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 650	RR & TRUCK	<input type="checkbox"/> 470	PROPERTY RIGHTS	<input type="checkbox"/> 470	RATES/ETC
<input type="checkbox"/> 152	RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)	<input type="checkbox"/> 350	MOTOR VEHICLE	<input type="checkbox"/> 385	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 660	AIRLINE REGS	<input type="checkbox"/> 820	COPYRIGHTS	<input type="checkbox"/> 480	DEPORTATION
<input type="checkbox"/> 153	RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS	<input type="checkbox"/> 355	MOTOR VEHICLE PRODUCT LIABILITY	<input type="checkbox"/> 390	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 690	OCCUPATIONAL SAFETY/HEALTH	<input type="checkbox"/> 830	PATENT	<input type="checkbox"/> 490	RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
<input type="checkbox"/> 160	STOCKHOLDERS SUITS	<input type="checkbox"/> 360	OTHER PERSONAL INJURY	<input type="checkbox"/> 395	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 710	SAFETY/HEALTH	<input checked="" type="checkbox"/> 840	TRADEMARK	<input type="checkbox"/> 810	CONSUMER CREDIT
<input type="checkbox"/> 190	OTHER CONTRACT			<input type="checkbox"/> 400	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 720	OTHER	<input type="checkbox"/> 861	SOCIAL SECURITY	<input type="checkbox"/> 850	CABLE/SATELLITE TV
<input type="checkbox"/> 195	CONTRACT PRODUCT LIABILITY			<input type="checkbox"/> 410	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 730	LABOR	<input type="checkbox"/> 862	MIA (1395FF)	<input type="checkbox"/> 875	SELECTIVE SERVICE
<input type="checkbox"/> 196	FRANCHISE			<input type="checkbox"/> 420	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 740	FAIR LABOR STANDARDS ACT	<input type="checkbox"/> 863	BLACK LUNG (923)	<input type="checkbox"/> 891	SECURITIES/COMMODITIES/EXCHANGE
				<input type="checkbox"/> 430	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 750	LABOR/MGMT RELATIONS	<input type="checkbox"/> 864	DIWC (405(g))	<input type="checkbox"/> 892	CUSTOMER CHALLENGE
				<input type="checkbox"/> 440	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 760	LABOR/MGMT REPORTING & DISCLOSURE ACT	<input type="checkbox"/> 865	DIWW (405(g))	<input type="checkbox"/> 893	12 USC 3410
				<input type="checkbox"/> 450	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 770	RAILWAY LABOR ACT	<input type="checkbox"/> 870	SSID TITLE XVI	<input type="checkbox"/> 894	AGRICULTURE ACTS
				<input type="checkbox"/> 460	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 780	OTHER LABOR LITIGATION	<input type="checkbox"/> 871	RSI (405(g))	<input type="checkbox"/> 895	ECONOMIC STABILIZATION ACT
				<input type="checkbox"/> 470	PERSONAL INJURY - PRODUCT LIABILITY	<input type="checkbox"/> 790	EMPL. RET INC. SECURITY ACT	<input type="checkbox"/> 880	FEDERAL TAX SUITS	<input type="checkbox"/> 896	ENVIRONMENTAL MATTERS
				<input type="checkbox"/> 480	PERSONAL INJURY - PRODUCT LIABILITY			<input type="checkbox"/> 890	TAXES	<input type="checkbox"/> 897	ENERGY
				<input type="checkbox"/> 490	PERSONAL INJURY - PRODUCT LIABILITY			<input type="checkbox"/> 898	IRS-THIRD PARTY	<input type="checkbox"/> 898	ALLOCATION ACT
				<input type="checkbox"/> 500	PERSONAL INJURY - PRODUCT LIABILITY			<input type="checkbox"/> 899	20 USC 7609	<input type="checkbox"/> 899	FREEDOM OF INFORMATION ACT
				<input type="checkbox"/> 510	PERSONAL INJURY - PRODUCT LIABILITY			<input type="checkbox"/> 900		<input type="checkbox"/> 900	APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
				<input type="checkbox"/> 520	PERSONAL INJURY - PRODUCT LIABILITY					<input type="checkbox"/> 901	CONSTITUTIONALITY OF STATE STATUTES
				<input type="checkbox"/> 530	PERSONAL INJURY - PRODUCT LIABILITY					<input type="checkbox"/> 902	OTHER STATUTORY ACTIONS
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				<input type="checkbox"/> 890	PERSONAL INJURY - PRODUCT LIABILITY						
				<input type="checkbox"/> 900	PERSONAL INJURY - PRODUCT LIABILITY						

*Check if demanded in complaint:*

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$

OTHER

JUDGE

DOCKET NUMBER

*Check YES only if demanded in complaint*JURY DEMAND: YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related

(SEE REVERSE)

## PLACE AN x IN ONE BOX ONLY

1 Original Proceeding    x 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from (Specify District)    ☐ 6 Multidistrict Litigation    ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

## PLACE AN x IN ONE BOX ONLY

☐ 1 U.S. PLAINTIFF    ☐ 2 U.S. DEFENDANT    3 BASIS OF JURISDICTION  
FEDERAL QUESTION (U.S. NOT A PARTY)    x 4 DIVERSITY

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1322, 1441)

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF x 5	DEF <input type="checkbox"/> 5
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2	x 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4	<input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES):

Harvey Auger, 4825 King Arthur Drive, Charlotte, NC 28272

Michael Lamanna, 31952 LaSubida Drive, Trabuco Canyon, CA 92679

Basil Westover, 5017 Southpoint Drive, Arlington, TX 76017

Elias Zinn, 531 Jessamine Street, Bellaire, TX 77401

Michael Wilcoxson, 6 Champions Mark, San Antonio, TX 78258

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES):

Dunhill Staffing Systems, Inc.  
9190 Priority Way, West Drive, Suite 201  
Indianapolis, IN 46240

## DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO:  
(DO NOT check either box if this a PRISONER PETITION.)

☐ WHITE PLAINS    ☒ FOLEY SQUARE

DATE: SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

RECEIPT #

Kenneth A. Lapatin

☐ No  
☒ Yes (DATE ADMITTED Mo. June Yr. 1971  
Attorney Bar Code # KL 3985

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_

is so Designated.

J. Michael McMahon, Clerk of Court by \_\_\_\_\_

Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)